

concurrently filed declaration, pulling and transmitting those records is the type of process that can be entirely or almost entirely automated.²⁶

SBC California's primary access to the underlying DALIS data affords it with significant scope and scale economies in providing the DALIS service. SBC California is the first party to know when most listing changes occur (because it receives the change request directly from its customers). SBC's comprehensive listing data result in significant demand both internally as part of the DALIS product and quite possibly for other uses as well.²⁷ Hence, it is not at all surprising that SBC Pacific's June 2002 Update supplied an updated estimate of the cost that it actually expects to incur to provide DALIS as a service on a forward-looking basis of only *** **BEGIN PROPRIETARY \$ END PROPRIETARY** *** per listing.²⁸ If SBC had stopped here, Joint Commenters would be filing quite briefer comments herein that would have questioned only certain aspects of that study and, by now, this Commission will have adopted the cost-based rates called for by D.02-02-025.

Unfortunately, SBC California produced the all-new so-called "TELRIC" analysis in its June 2002 Update, which included results that are labeled as "data acquisition,"²⁹ "data storage"³⁰ and "data maintenance/update,"³¹ reflecting a novel interpretation of TELRIC never

²⁶ Caputo Declaration, ¶¶ 9-10.

²⁷ SBC California Response to WorldCom's 2nd Set of Data Requests, Nos. 4 & 7, attached as part of Exhibit TLM-2 to Ms. Murray's declaration. This combined response lists eight different products that use listings records as an input. In some cases, such as DALIS, a particular product will use the same records multiple times.

²⁸ These costs are what SBC California characterizes as its "TSLRIC" DALIS service study results. Deposition, 1/24/03, Pearsons, Tr. 6-7.

²⁹ SBC California 6/6/02 DALIS study, p. 8, parts 1A and 1B.

³⁰ SBC California 6/6/02 DALIS study, p. 8, part 2.

³¹ SBC California 6/6/02 DALIS study, p. 8, part 3.

encountered before by the Joint Commenters or their experts in any of the literally dozens of UNE cost cases participated in since the FCC adopted its TELRIC methodology in 1996. This absurd interpretation of TELRIC (as least, as applied to its current DALIS cost study) requires one to imagine that SBC California's entire retail operation and all its outputs entirely cease to exist,³² further assumes that it has no contact with end-user customers at all,³³ and thus can only offer DALIS by first purchasing listings for the current SBC California local exchange service territory from whatever entity it imagines would replace SBC California as the provider of retail basic exchange service. SBC California's own cost study expert, Mr. Pearsons, acknowledged during his deposition that, to the best of his recollection, SBC California and its predecessor companies had not taken an analogous approach in any other "TELRIC" study.³⁴ Thus, as discussed below, SBC California's "updated" DALIS cost studies are not appropriate to consider in any manner as a benchmark for cost-based, nondiscriminatory pricing of DALIS for at least three reasons: (1) the new study concerning DALIS data acquisition, storage and maintenance does not capture costs for a company of SBC California's actual scale and scope; (2) the "TELRIC" study's fundamental premise is inconsistent with the TELRIC methodology; and (3) both of the SBC California studies' assumptions are demonstrably inaccurate.

³² Deposition, 1/24/03, Pearsons, Tr. 6-7.

³³ Deposition, 1/24/03, Pearsons, Tr. 8.

³⁴ Q. Is there any other TELRIC study that you can recall that Pacific has filed with the Commission where you make the same assumption that you imagine there is no function that exists at SBC that does the same thing any more?

A. (Mr. Pearsons:) Offhand I can't think of any. Tr at 11.

V. SBC California's June 2002 Update of Supposed DALIS Acquisition, Storage and Maintenance Costs Does Not Reflect the Forward-Looking Economic Costs for a Company of SBC California's Actual Scale and Scope.

As noted above, SBC California's new "TELRIC" costs consist of reported costs for "data acquisition," "data storage" and "data maintenance/update." Data acquisition costs are essentially the cost of buying listings data at what SBC California imagines would be the average price a wholesale-only company would have to pay to obtain the entire set of SBC California's current DALIS listings from third parties.³⁵ Data storage capital costs are the costs for buying new "midrange" computers, *i.e.*, computers much smaller than the mainframe systems SBC California actually uses to process DALIS records to support a new company with no relevant economies of scale and scope. Data maintenance/update costs (and the labor portion of data storage costs) relate to the crew that SBC California imagines it would need to hire to staff this new DALIS-only business, which includes a support team much larger than the one SBC California's actual operations involve today (as reflected in the "TSLRIC" study), plus an additional crew to do all of the listings corrections that SBC California's current retail operations currently perform.³⁶

SBC California admits that none of the costs in its "TELRIC" analysis are "directly attributable to the DALIS product in Pacific's current operation."³⁷ Hence, even if these costs were relevant to a forward-looking cost analysis, they would not be attributable to any individual product or service. In a properly conducted TELRIC study, costs that are not directly attributable

³⁵ Deposition, 1/24/03, Pearsons, Tr. 137-139 and 148-149.

³⁶ In making this assumption, SBC California apparently presumes that the incumbents from whom it buys retail listings will not perform any meaningful quality control function. Hence, SBC California effectively assumes that its new all-wholesale operation would be paying substantial retail rates for listings data of consistently poor quality that would require a large fulltime staff to correct.

to any specific UNE are considered to be either “joint” costs (*i.e.*, costs attributable to two or more products and services, which this Commission has termed “shared” costs) or “common” costs (*i.e.*, costs that cannot be “attributed directly to individual elements or services” but instead are “incurred by the firm’s operations as a whole”³⁸). Common costs thus are by definition associated with all of the firm’s operations, wholesale and retail.

At best, therefore, the costs in SBC California’s abstrusely labeled “TELRIC” analysis are shared or common costs and should not be recovered exclusively from DALIS customers. SBC California acknowledges that the categories of cost included in its “TELRIC” analysis are currently recovered from its retail customers;³⁹ hence, recovering (an even higher, purely hypothetical level of) those costs through DALIS prices would constitute impermissible double-recovery.

However, the problems with SBC California’s so-called “TELRIC” analysis go far beyond double-recovery. SBC California admits that the costs in its “TELRIC” study require assumptions that are so fundamentally incompatible with its TSLRIC study that the two sets of costs *literally could not both be incurred “in the same world.”*⁴⁰ Indeed, SBC California goes so far as to admit that the two studies are studies of “two different cost objects,”⁴¹ *i.e.*, they are not

³⁷ Deposition, 1/24/03, Pearsons, Tr. 171.

³⁸ 47 C.F.R. § 51.505(c)(1); *see also Local Competition First Report and Order* at ¶ 694 (common costs are those “that are common to all services and elements (e.g., salaries of executives involved in overseeing all activities of the business)”).

³⁹ Deposition, 1/24/03, Pearsons, Tr. ***.

⁴⁰ Deposition, 1/24/03, Pearsons, Tr. 148-149.

⁴¹ Deposition, 1/24/03, Pearsons, Tr. 11.

studies of the same thing. Specifically, SBC California suggests that its new study is a study of a “wholesale” product, while its TSLRIC study is of a “retail” product.⁴²

The twist on the typical wholesale/retail distinction is that SBC California has invented a scenario in which its estimate of wholesale costs is much higher than its study of the cost to provide the same product on a retail basis. SBC California’s TSLRIC estimate of the cost it will incur to provide DALIS is *** BEGIN PROPRIETARY \$ per listing to provide listings to DALIS customers per month. That equals about \$ per month or about \$ per year. END PROPRIETARY *** In contrast, SBC California’s TELRIC study estimates that an all new wholesale-only operation without access to SBC California’s existing retail data would incur *** BEGIN PROPRIETARY \$ per year in costs to buy updated listings plus millions more to store and maintain that information. END PROPRIETARY *** SBC California admits that its “TELRIC” study also assumes that the new “wholesale-only” company would incur more than *** BEGIN PROPRIETARY dollars in costs to obtain an initial set of listing records, while SBC California can provide the same thing for \$.⁴³ END PROPRIETARY *** SBC California is apparently suggesting that any wholesale-only operation that attempted to compete with it would incur vastly higher costs than does SBC’s current integrated retail/wholesale operation.

In short, the costs in SBC California’s supposed TELRIC study are, at best, an attempt to estimate costs that a company *other than SBC* with no telephone customers of its own whatsoever might incur should it chose to offer a DALIS product. If anything, SBC California’s

⁴² *Id.* It further admits that no one would ever buy both products simultaneously as they are merely two different ways of calculating the cost to provide the same thing. *Id.*, Tr. 142-143.

⁴³ Deposition, 1/24/03, Tr. 139-141.

surreal exercise of starting a new company without the scale and scope economies for obtaining customer listing data stemming from its dominant market share for retail local exchange service merely confirms the vastly higher costs that other competitors would incur, relative to SBC California's own DALIS-related costs, should they attempt to obtain directory listing data from any source other than SBC California. In other words, SBC California has provided a compelling "impairment" analysis that makes a strong case for considering DALIS to be a UNE. Regardless of whether DALIS holds formal UNE status, however, it is essential that the Commission require SBC California make listings data available to other parties at a reasonable, cost-based price. This is the only approach that promotes full and fair competition.

VI. The Fundamental Premise of SBC's "Updated" DALIS Study Is Inconsistent with the TELRIC Methodology That Study Purportedly Embodies

One reason that SBC California's "updated" DALIS cost study produces such unreasonable results is that the fundamental premise of the study is inconsistent with the very TELRIC methodology that the study purports to embody. The fundamental premise of the "TELRIC" version of the SBC California cost study is that:

in the TELRIC environment, it's a wholesale only environment, and therefore you don't have the retail access to the data from end users, so we would not only have to acquire all the data, we would have to put for systems and maintenance, maintaining those systems, to be able to have a database that would house all this information. Today we are relying on our retail side of the business for a lot of that.⁴⁴

In other words, SBC California has injected into its "TELRIC" study all of the additional costs that it can avoid as a result of its legacy as the dominant provider of retail local exchange service—which are the source of the market power that SBC possesses relative to other

⁴⁴ Deposition, 1/24/03, Pearsons, Tr. 7. *Also see* Tr. 148-149.

competitors that must obtain directory listings. Building these costs into the price for SBC California's directory listing service would allow the company to exploit this market power and gain precisely the unfair competitive advantage that cost-based pricing of DALIS is intended to prevent. Murray Declaration at ¶ 52.

SBC California relies on a federal district court decision to claim that a TELRIC cost study must calculate DALIS costs as if SBC California were not also a retail provider of local exchange service.⁴⁵ The Commission should be aware that SBC California's quotation from the federal district court decision omits contextual sentences before and after the quoted passage that can be read differently from the way that SBC California apparently interprets this language.

Specifically, the Court stated:

The FCC makes clear that in calculating common costs and allocating those costs to the direct costs of providing UNEs, all costs of retail services must be excluded, in order to calculate "the total forward-looking costs of operating the wholesale network." *Id.* (emphasis added). In other words, the TELRIC methodology calculates the forward-looking cost to ILECs of providing UNEs, in a hypothetical competitive market in which the ILEC is a wholesaler, leasing UNEs to CLECs. The ILEC's retail operations (selling telephone services to consumers) are therefore irrelevant to the TELRIC pricing method, and must be excluded. As the FCC stated: "Retailing costs, such as marketing or consumer billing costs associated with retail services, are not attributable to the production of network elements that are offered to interconnecting carriers and must not be included in the forward-looking direct cost of an element." *Id.* ¶ 691; see also *id.* ¶ 694 ("[F]or the purpose of pricing interconnection and access to unbundled elements, which are intermediate products offered to competing carriers, the relevant common costs do not include billing, marketing, and other costs attributable to the provision of retail service.").⁴⁶

⁴⁵ SBC California Response, 8/23/02, pp. 3-4.

⁴⁶ *AT&T Communications of California, Inc., et al., v. Pacific Bell Telephone Company et al.*, Civ. No. C. 01-02517 CW (N.D. Cal., Aug. 6, 2002), *mimeo*, p. 7 (emphasis in original), appeal pending.

SBC California's quotation omits the first sentence of this passage and the phrase "In other words," at the beginning of the second sentence (which make clear that the material SBC California addresses is the federal district court's understanding of how to calculate common costs under TELRIC and *not* how to calculate the direct cost of UNEs). SBC California's quotation also omits the federal district court's concluding quotations from the FCC's *Local Competition First Report and Order*, which indicate that TELRIC excludes "retailing" costs, *i.e.*, retail-only costs such as marketing and consumer billing costs. As Ms. Murray states, given this context, and her understanding of TELRIC principles as an economist who has participated in dozens of UNE pricing proceedings, the interpretation of the federal district court's language that seems most consistent with the underlying economic principles is simply that a TELRIC study must exclude all retail-only costs. Murray Declaration at ¶ 53.

The Commission should reject SBC California's bizarre application of the federal district court's language to the pricing of DALIS because that interpretation is impossible to reconcile with the expressed intention of the FCC's TELRIC methodology. In its *Local Competition First Report and Order*, which adopted the TELRIC methodology, the FCC noted that, "[a]s a result of the availability to competitors of the incumbent LEC's unbundled elements at their economic cost, consumers will be able to reap the benefits of the incumbent LECs' economies of scale and scope, as well as the benefits of competition."⁴⁷ One of the key economies of scale and scope that SBC California and its affiliates enjoy is the ability to share the cost of obtaining directory listings between the retail local exchange operations and all other related lines of business. A cost study that assumes away the existence of the retail local exchange operations therefore assumes away the very economies of scale and scope that the FCC intended to capture through

TELRIC-based pricing. Moreover, a cost study that assumes away these economies of scale and scope cannot provide a basis for nondiscriminatory pricing.

SBC, as a corporation, will not incur the extraordinarily high data acquisition, storage and maintenance/update costs that are the subject of SBC California's so-called "TELRIC" study for DALIS. Therefore, SBC, as a corporation, need not establish retail prices that recover these nonexistent costs, regardless of how it chooses to establish transfer prices between SBC California and other affiliates that use directory listings information. If the Commission were to allow SBC California to charge other competitors for these illusory costs, however, the price that those competitors pay for DALIS would become a true economic cost to the unaffiliated competitors. They would have no choice but to attempt to recover those costs through their retail pricing, giving SBC California and its affiliates an unfair competitive advantage. At any level of retail prices, SBC California and its affiliates would achieve higher profits than would equally efficient competitors saddled with uneconomically high DALIS prices. The end result of such unfair competition would likely be both excessive profits for SBC and excessive retail prices for California consumers, a result that is neither pro-competition nor pro-consumer.

VII. The Assumptions of SBC's "Updated" DALIS Study Are Severely Flawed and Inaccurate

In addition to the overarching invalidity of its TELRIC methodology, SBC California's "updated" DALIS cost study contains several other severely flawed and inaccurate assumptions. As discussed below, these errors include a requirement that purchasers of DALIS be forced to pay for DALIS that is obtained from other ILECs as well as pervasive errors involving the "data

⁴⁷ *Local Competition First Report and Order* at ¶ 679.

acquisition,” “data storage” and “database maintenance/update” costs that are all new in this version of the DALIS cost study and the modified per-listing cost.

a.) Purchase of non-SBC listings from SBC California should be optional

The rationale for requiring SBC California to provide DALIS at cost-based, nondiscriminatory prices is to eliminate the unfair advantage that SBC California would otherwise possess by virtue of its former legal monopoly and its continued dominance in retail local exchange markets in its California service territory. That rationale has no force when it comes to listings that SBC California acquires (apparently, at rather high prices) from other incumbents and enters those listings into its own database. DALIS customers such as Joint Commenters can, and do, obtain directory assistance listings directly from incumbents other than SBC California. Requiring them to pay SBC California for the administrative effort that the company makes, on behalf of its own retail operations, to acquire other incumbents’ listings would introduce an additional, needless layer of costs into the operations of DALIS customers. Not only would they have to compensate Verizon and independent phone companies indirectly for the cost of their listings (by paying a per-listing charge that reflects the cost to SBC California of obtaining those listings from the other incumbents), they would also have to pay SBC California for whatever cost it incurs to store and process that information. Then, they will incur the same kinds of costs themselves to store and process the non-SBC information obtained from SBC California.

Should a DALIS customer opt to obtain non-SBC listings from SBC California, it would seem reasonable for that customer to pay a per-listing charge for those optional listings based on the charge in SBC California’s so-called “TELRIC” study because the SBC California’s “TELRIC” per-listing cost is purportedly based on a weighted-average of the price it pays to

Verizon and ICOs to obtain their listings. These are precisely the listings that DALIS customers would be obtaining via the optional non-SBC listing rate element; hence, this is the best cost information in the record on which to base an optional charge for those listings.

b.) SBC California's "Data Acquisition" Cost Estimate Is Flawed.

The "data acquisition" costs in SBC California's "updated" DALIS cost study consist of a "weighted average" cost per record for initial load and for additional listings multiplied by the total listings for both SBC- and non-SBC incumbent local exchange carriers. SBC California uses an unreasonable weighted average cost per record. It includes its own records in the number of records used in its total annual cost calculation, but it presumes that the weighted-average cost of acquiring all of these records (including its own retail records) would equal the weighted average cost that it pays other incumbents (Verizon and independents or "ICOs") to purchase their records.⁴⁸ The vast majority of the records that SBC California acquires from other incumbents come from Verizon (*i.e.*, Verizon volumes dominate the Verizon + ICO total); hence, the unreasonably high price (\$0.04) that SBC California purportedly pays Verizon dominates the weighted-average cost that SBC California applies to all records, including its own retail records.⁴⁹

There is no basis whatsoever for assuming that it would cost SBC California nearly \$0.04 per record to "acquire" its own directory assistance listings. Indeed, as the Commission has never yet established a price for SBC California's DALIS product or for Verizon that is based on a detailed examination of forward-looking economic costs, it is incredible that SBC California

⁴⁸ Deposition, 1/24/03, Smith, Tr. ***.

⁴⁹ Deposition, 1/24/03, Smith, Tr. ***.

assumes the existing prices that Verizon charges would be a useful proxy. Equally beyond belief are SBC California's inventions about how its retail-operation-free existence would unfold.

First, SBC asserts that it is obligated by Commission order to maintain statewide listing data. Thus, some of SBC California's positions in this docket rely on its maintaining comprehensive listings data – the opposite of its “TELRIC” study assumption. Next, SBC California's assumption that it would be wholesale-only with no listings data of its own implies that all listings records for the current SBC California local exchange service territory would necessarily come from third-parties such as competitive local exchange providers. But, competitors currently give SBC California listings data at no charge, which is again inconsistent with SBC California's assumption that it would pay retail rates for those listings.

In other words, these costs simply do not exist and will not exist in any reasonably foreseeable future. *I.e.*, SBC California does not and will not have to pay some unaffiliated company for listings. For its own service area, SBC California has those listings or gets those listings from competitors at no charge. As for listings for end users in Verizon or other ILEC areas, both SBC California and any other potential DALIS customer can purchase the listings directly from those other entities at the same presumed “retail” price. Even SBC California admits that it “might not make sense” for anyone to ever purchase those listings from the wholesale company SBC California's analysis invents, rather than simply obtain the listings directly from the relevant retail service providers.⁵⁰ Certainly, no one would purchase the listings of another phone company from SBC Pacific once it has marked up the price an order of magnitude over cost.

c.) SBC California's "Data Storage" Capital Cost Estimate Is Flawed

SBC California's reported capital cost for "data storage" assumes that SBC California would purchase several mid-range computers that it treats as being devoted entirely to DALIS.⁵¹ Indeed, the data storage portion of SBC California's "TELRIC" study apparently assumes not only a "wholesale-only" operation without any retail analog, but also a "DALIS-only" operation that cannot share costs with any other wholesale operation.⁵² In other words, in the data storage portion of its study, SBC California has assumed away not only the scale and scope economies associated with being both a retail and a wholesale company, but also the scale and scope economies associated with offering multiple wholesale products. The assumption underlying this aspect of SBC California's study is inconsistent with the overall guidance of its cost study expert, who stated that the underlying assumption of company's "TELRIC" study is "not a hypothetical company that only sells DALIS. It is Pacific Bell as a wholesale only business. It's not that we are going to just sell DALIS. We will still have unbundled network elements, things like that."⁵³

The "DALIS-only" assumption underlying the data storage portion of SBC California's "TELRIC" study cannot be reconciled with the FCC's own description of TELRIC or even the language from the federal district court order that SBC California has cited as its basis for the wholesale-only construct. The federal district court opinion addresses the treatment of shared and common costs in a TELRIC study and, the FCC's *Local Competition First Report and Order* defines "joint" (or "shared") and common costs as costs attributable to multiple products and

⁵⁰ Deposition, 1/24/03, Pearsons, Tr. 158-159.

⁵¹ Deposition, 1/24/03, Smith, Tr. 54-55.

⁵² Deposition, 1/24/03, Smith, Tr. 56 ("The assumption I was using was that we were a DALIS only company....").

⁵³ Deposition, 1/24/03, Pearsons, Tr. 138.

services. Therefore, it is clear that neither the federal district court nor the FCC requires a TELRIC study to employ a hypothetical construct that assumes away all of the economies of scale and scope that SBC California and other incumbents achieve by virtue of the wide array of products and services that they offer.

The assumption of a "DALIS-only" company virtually guarantees that the unit cost estimates for data storage will exceed the costs that competitors can achieve themselves if they make multiple uses of computing capacity. In this respect, SBC California's "TELRIC" study produces costs that almost certainly exceed the prices that are sustainable for DALIS even in today's "market" for directory listings, which, as Ms. Murray explains in her declaration, is far from competitive. The only conclusion that one can draw is that SBC California has no desire to sell the DALIS product to Joint Commenters or any other potential buyers.

SBC California admits that the mid-range computers assumed in its "TELRIC" study would not necessarily be the least-cost choice for a company that uses computers for tasks other than processing DALIS data.⁵⁴ Thus, the efficient unit cost for a wholesale-only company could be lower than the cost shown in SBC California's "TELRIC" study. SBC California also admits that even the mid-range computers included in its "TELRIC" cost study would not be occupied full-time with DALIS processing and could thus also support other operations.⁵⁵ Thus, an efficient wholesale-only company would seek to use the spare capacity of the computers assumed in its data storage "TELRIC" analysis.

If, as SBC California supposedly assumes in its "TELRIC" study, it maintained all of its current operations except retail, the company would necessarily still have mainframe computers

⁵⁴ *Id.*, Tr. 55-56.

doing many other tasks, such as maintaining the loop inventory. SBC California has acknowledged that it cannot even identify all of the other business functions the mainframe computer that processes its DALIS product in the “real world” also accommodates because “there are several thousand tasks that run on Pacific Bell’s mainframe systems daily.”⁵⁶ There is no basis whatsoever for assuming that the wholesale-only SBC California would not have similarly well-occupied computer systems. Therefore, assigning 100% of the cost of that capacity to DALIS would be improper, even given SBC California’s wholesale-only construct.⁵⁷

d.) SBC California’s Labor Cost Estimate for “Data Storage” and “Database Maintenance/Update” Is Flawed.

The “data storage” and “database maintenance/update” portions of SBC California’s study assume that SBC California would require roughly two dozen full-time employees just to manage a wholesale-only DALIS product. This assumption far exceeds SBC California’s actual DALIS workforce, which strongly suggests that SBC California cannot possibly have assumed an efficient operation as a forward-looking cost analysis requires.

Indeed, the notion that a wholesale-only company would need two-dozen employees to manage *computer processing and updating* of about *** **BEGIN PROPRIETARY** million⁵⁸ **END PROPRIETARY** *** records *per month* for each of a handful of clients defies common sense. WorldCom declarant Jason M. Knapp, the chief development engineer for WorldCom’s own directory assistance database, notes that this claim by SBC California implies that it would

⁵⁵ Deposition, 1/24/03, Smith, Tr. 55.

⁵⁶ SBC California’s Response to WorldCom’s 3rd Set of Data Requests, No. 22, attached hereto as part of Exhibit TLM-2.

⁵⁷ WorldCom witness Mr. Knapp provides additional discussion concerning why SBC California’s data storage assumptions, such as its estimate of the computing resources required to process this volume of records and the cost of those systems, are overstated.

take a wholesale-only DALIS provider twice as many people to administer a database one-tenth the size of the nationwide database that WorldCom maintains. Knapp Declaration at ¶ 7. Mr. Caputo, Director of Operator Services and Directory Assistance for WorldCom, provides the specific, WorldCom-proprietary detail on which Mr. Knapp's conclusion is based. Caputo Declaration at ¶ 18.

These inflated labor assumptions stem from SBC California's improper hypothetical construct of a wholesale-only, *DALIS-only* company. Thus, for example, the "data storage" portion of the study assigns to DALIS the full cost for "on call developers to implement changes and time resolution issues."⁵⁹ The very description of these individuals as being "on call" suggests that they would not be fully occupied with the day-to-day provision of the DALIS product.⁶⁰

Similarly, the "database maintenance/update" portion of the study assumes away SBC California's retail operations. The labor included in this portion of the study replicates the personnel who currently support SBC California's retail directory assistance operation.⁶¹ That is, SBC California allegedly requires the same number of database maintenance/update personnel for a retail-only operation, a combined retail and wholesale operation, or a wholesale-only operation. As a result, SBC California recovers the cost of its retail directory assistance

⁵⁸ SBC California study, page 8, cell F19.

⁵⁹ Deposition, 1/24/03. Smith, Tr. 60.

⁶⁰ In fact, as Ms. Murray states, based on the description of SBC California's subject matter expert in her deposition testimony, it seems likely that some of the personnel would be much like the lonely Maytag repairman in the television commercials, waiting with little hope for the phone to ring and require his services. Deposition, 1/24/03, Smith, Tr. 58-69.

⁶¹ Deposition, 1/24/03, Jameson, Tr. 110.

operation from retail customers. Therefore, assignment of 100% of the same cost to a hypothetical "TELRIC" DALIS product constitutes impermissible double-recovery of costs.⁶²

VIII. SBC California Significantly Inflates Its Estimate Of The Forward-Looking Cost It Will Actually Incur To Provide DALIS

As noted above, SBC California's estimate of its actual forward-looking cost to provide DALIS (*i.e.*, its "TSLRIC" study) consists primarily of costs for a product support staff, "database maintenance" costs for time spent correcting listing errors identified by DALIS customers, and the computer processing time needed to extract update records. SBC California has inflated each of these components. All of these costs are substantially overstated as indicated in Ms. Murray's declaration.

a.) SBC California's Estimate Of The Cost Of Computer Processing Time Is Substantially Overstated.

SBC California's study values the computer time needed to process DALIS records at \$500 per hour of computer Central Processor Usage ("CPU").⁶³ SBC California asserts that "[t]he \$500 per hour CPU rate was established in the original AT&T Bill Collection study in the late 1980s."⁶⁴ In other words, SBC California is relying on an input *for the cost of computers* from the 1980s. It is common knowledge that the cost for computers, particularly in terms of cost as a function of time to process a given amount of data, has plunged since the 1980s.

⁶² WorldCom witnesses Caputo and Knapp provide additional explanation regarding why SBC California's database maintenance/update assumptions are unreasonable.

⁶³ See, e.g., SBC California Response to WorldCom's 3rd Set of Data Requests, No. 6, attached hereto as part of Exhibit TLM-2.

⁶⁴ *Id.*

SBC California's decision to use nearly two-decades-old computer costs in its DALIS cost study is so unreasonable as to indicate bad faith. As WorldCom witness Mr. Caputo indicates, WorldCom can obtain comparable mainframe CPU processing time from its vendors for less than *** **BEGIN WORLDCOM PROPRIETARY \$** **END PROPRIETARY ***** per hour. WorldCom's vendors must also recover their own supporting facility costs such as power and building space to stay in business; therefore, one can reasonably presume that the prices WorldCom pays its vendors for computer processing time include the same kinds of loadings that SBC California considers. Thus, the price that WorldCom pays its vendors should capture the drop in the costs of current computer equipment relative to SBC California's \$500 figure from the 1980s. Consequently, Ms. Murray recommends replacing the \$500 per-CPU-hour assumption in SBC California's DALIS study with \$100. This figure is conservative, particularly for a forward-looking study, as computing costs seem to continue to decline. This single correction reduces SBC California's reported recurring cost to provide DALIS from *** **BEGIN PROPRIETARY \$** to \$ **END PROPRIETARY *****, or about 18 percent.

b.) SBC California underestimates the number of DALIS records per month.

SBC California proffers inconsistent estimates of the number of DALIS records it provides each month. Page 4 of its "TSLRIC" study (the study of costs for SBC California as it is currently configured) assumes that SBC California provides about 514,000 DALIS records per month to each DALIS customer.⁶⁵ In contrast, Tab 7 of its "TELRIC" study (the study of the hypothetical wholesale-only company) assumes that SBC California requires about 1.3 million updated records per month to keep the DALIS product current.

SBC California provided its "explanation" for this discrepancy in Record Request Response 7, which is attached hereto as part of Exhibit TLM-5. In that response, the company asserts that it developed the 3.6 million total DALIS update records per month based on the average total monthly listings provided to the seven "current" DALIS customers (excluding one customer that was no longer obtaining DALIS from SBC California at the time of the cost study) during three of the ten months⁶⁶ preceding the study date. The months included were July, September and October 2001. SBC California excluded the other seven months' data because the months were purportedly "atypical" and may have represented initial loadings for the customers in question. (This presumption is questionable because all seven customers included apparently obtained listings in each of the ten months reviewed, which begin with March 2001, four months *prior* to the first month included in the SBC California sample average.) Nothing in SBC California's response to Record Request 7 explains why the seven "current" DALIS customers allegedly receive, on average, less than half of the total number of DALIS listings necessary to keep the listings database up-to-date. If there is indeed such a large disparity, one must question whether the SBC California is providing competitors with a database of comparable accuracy and completeness to the company's own internal database.

The true explanation, however, may be that SBC California actually provides far more update listings than its sample average for non-randomly-selected months shows. WorldCom witness Mr. Knapp explains in his concurrently filed declaration that, in 2002, WorldCom processed an average of 1.3 million daily update listings each month from SBC California (a

⁶⁵ Deposition, 1/24/03, Tr. 159-160. The 514,000 represents the purported average total 3.6 million update records that SBC California provides to DALIS customers divided by 7 customers.

⁶⁶ Although the record request states that the cost study considered the last six-months' listing data, it also identifies the months examined as being March through December 2001, which represents ten months, not six.

figure that excludes listings obtained from SBC California for retail customers of other incumbents).⁶⁷ This figure corresponds closely to the number that SBC California's subject matter expert noted as being necessary to maintain an up-to-date listings database, but far exceeds the average number of DALIS listings per customer per month that SBC California used to develop its recurring cost per listing.

The apparent discrepancy is important because SBC California divides an estimate of its total monthly recurring costs for DALIS by the estimated total monthly update listings provided to DALIS customers to arrive at the recurring cost per listing.⁶⁸ For any given level of total monthly recurring costs, the recurring cost per listing decreases as the number of listings increases. (In mathematical terms, the recurring cost per listing is inversely correlated with the number of listings.) If SBC California actually provides far more updated listings to its DALIS customers than it assumes in its recurring cost study, then the company will over-recover its estimated total recurring costs. To stop this over-recovery, the Commission should adopt Ms. Murray's recommendation, that it calculate the recurring cost per-listing for DALIS using an average 1.3 million update listings per month per DALIS customer.

This approach corresponds to the estimate of SBC California's own subject matter expert and to WorldCom's recent experience. My restatement of SBC California's recurring costs reflects this assumption. If, however, the Commission accepts SBC California's inexplicably lower estimate of the average DALIS listing updates provided per month to "current" customers, then the Commission should only allow SBC California to charge DALIS customers for the

⁶⁷ Knapp Declaration, ¶ 6.

⁶⁸ SBC California DALIS cost study, Tab 3, line 28.

number of listings assumed in calculating the recurring cost per listing. This approach would prevent over-recovery of SBC California's claimed recurring costs.

c.) SBC California assumes numerous, unsupportable layers of manual employee work effort.

The labor costs included in SBC California's "TELRIC" study, assumes excessive and inefficient work times. Similar flaws exist in the company's "TSLRIC" study. For example, the *** **BEGIN PROPRIETARY** **END PROPRIETARY** *** hours per month of DALIS customer support time identified in SBC California's recurring cost study seems much higher than could possibly be required to support seven DALIS customers if the experience cited by WorldCom witness Mr. Knapp is at all typical. Mr. Knapp identifies only four instances in all of 2002 during which he contacted SBC California customer service representatives concerning issues with DALIS and estimates that the total time spent during those contacts was approximately 8 hours.⁶⁹ That experience, multiplied by seven DALIS customers, would yield a total of 56 hours *annually*, or less than 5 hours per month of customer support time.

SBC California provided few specifics to document the validity of its assumptions for customer support labor.⁷⁰ For example, SBC California's subject matter expert was unable to indicate the average monthly number of contacts between customer support personnel and DALIS customers were reflected in the cost study.⁷¹ This lack of specificity makes it very difficult for parties or the Commission to verify or contest the reasonableness of SBC

⁶⁹ Knapp Declaration, ¶ 5.

⁷⁰ Deposition, 1/24/03, Cashin, Tr. 83-100, summarizes the level of documentation available for SBC California's study assumptions in this area.

⁷¹ Deposition, 1/24/03, Cashin, Tr. 98-99.

California's study assumptions. Likewise as Ms. Murray notes, the SBC California e-mails and issue logs provided in response to deposition record requests do not seem to come close to filling the gap between WorldCom's experience and SBC California's estimated support times.⁷² Moreover, some of the "customer support" activities consist of researching apparent database errors that DALIS customers bring to SBC California's attention,⁷³ activities actually benefit SBC California's retail operations as much as they benefit the DALIS customers' operations for which SBC California should not be charging DALIS customers. Thus, given the paucity of documentation and the apparently large gap between the level of customer support activity cited by Mr. Knapp (and revealed in SBC's own DALIS issues logs) versus the cost study's assumptions, Ms. Murray recommends that the Commission make a 25% downward adjustment to SBC California's estimated labor costs for customer support, a highly conservative disallowance of monthly recurring customer support costs, far less than would be implied by Mr. Knapp's testimony.

d.)The cost for manually processing physical tapes should be recovered through a rate element that applies only to DALIS customers that require such tapes

SBC California's DALIS cost study includes the cost of manually processing physical tapes for each and every DALIS customer, yet DALIS customers can also obtain the data electronically and many choose to do so. SBC California's decision to study DALIS costs as if every customer

⁷² SBC California Responses to Record Requests 2 and 5, Attachments RR-2 and RR-5 respectively, which are attached hereto as part of Exhibit TLM-5.

⁷³ See, for example, Exhibit TLM-5, SBC California Response to Record Request 2, Attachment RR-2, pp. PBDAL000056-000057.

receives physical tapes underscores how little attention SBC California devoted to making its DALIS cost study conform to the way that the product is actually delivered.

Customers that choose to incur the costs necessary to obtain DALIS data electronically should not have to pay for tape-preparation costs that SBC California will not incur on their behalf. Hence, the Commission should require SBC California to eliminate the tape preparation costs from its basic per-listing charge for DALIS. If SBC California continues to offer physical tapes as an alternative delivery mechanism for DALIS data, then it should reflect the cost of preparing those tapes in a separate, optional rate element. Only those customers that choose the tape delivery option should pay the corresponding rate element.

e.) Adoption of each of the adjustments proposed herein would result in a conservatively high cost for DALIS.

Even after making all of these adjustments noted above, the SBC Pacific Cost study still includes assumptions that likely overstate the true forward-looking cost of the DALIS product. For example, SBC California appears to have used "loaded" labor rates that add allowances for supervisory time.⁷⁴ Its deponents did not know whether this loading duplicated the supervisory time explicitly included in the DALIS study, but acknowledged there was at least a potential for double-counting.⁷⁵ Similarly, SBC California's deponents acknowledged that the labor rates may include loadings for nonproductive work time (such as break time) on top of the actual wage rates paid to its employees that are already counted in the total number of hours assumed to be

⁷⁴ Deposition, 1/24/03, Tanner, Tr. 169.

⁷⁵ Deposition, 1/24/03. Pearsons, Tr. 169-170.

worked per employee.⁷⁶ As a result, even Ms. Murray's "corrected" version of SBC California's cost study likely overstates efficient, forward-looking economic costs.

IX. Conclusion

The Commission should adopt Joint Commenters' recommendations:

- (A) Reject SBC California's proposal for "market-based" pricing and instead adopt cost-based prices that reflect the forward-looking costs that an efficient company with SBC California's current scale and scope can expect to achieve for DALIS, plus a Commission-approved markup for shared and common costs;
- (B) Reject entirely SBC California's purported "TELRIC" costs for data acquisition, data storage and database maintenance/update because DALIS customers do not cause SBC California to incur any of these costs which are entirely inconsistent with a proper interpretation of the FCC's TELRIC methodology;
- (C) Adjust SBC California's purported "TSLRIC" recurring and non-recurring costs to reflect better estimates of the forward-looking cost for computer processing and the length of time that such processing will take, the efficient amount of labor needed to support the DALIS product, the average number of DALIS update listings provided per month and the fraction of database maintenance costs directly attributable to DALIS customers; and
- (D) Segregate the costs for preparing and delivering physical tapes into a separate rate element chargeable only to DALIS customers that order such tapes.

In turn, the Commission should adopt the following DALIS prices:

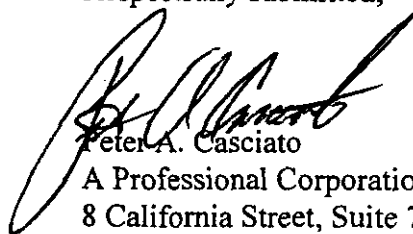
Table 1

<u>Rate Element</u>	<u>Units</u>	<u>Revised Cost</u>	<u>Price⁷⁷</u>
Recurring (Update listing files)	Per Listing	\$0.00072	\$0.00087
Optional Tape Delivery	Per Tape	\$13.32	\$16.12
Non-Recurring (Base File)	Per Base File Order	\$2,954.37	\$3,574.79

⁷⁶ Deposition, 1/24/03, Pearsons, Tr. 164-167; *see especially* Tr. 167.

⁷⁷ 21% markup for common costs.

Respectfully submitted,



Peter A. Casciato

A Professional Corporation

8 California Street, Suite 701

San Francisco, CA 94111

Telephone: (415) 291-8661

Email: pacasciato@covad.net

Attorney for Metro One

Telecommunications, Inc.

& on behalf of Worldcom, Inc.

and LSSi Corporation

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